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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/922,462	09/03/1997	JAMES R. DEFRANCESCO	CMSI-0003	1577

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GOODWIN PROCTER L.L.P
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ROSELAND, NJ 07068

EXAMINER

NGUYEN, NGA B

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 02/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/922,462

Applicant(s)

DEFRANCESCO ET AL.

Examiner

Nga B. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 17,39,40 and 62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 17,39,40 and 62 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is the answer to the Amendment filed on June 24, 2003, which paper has been placed of record in the file.
2. Claims 17, 39, 40, and 62 are pending in this application.

Response to Arguments/Amendment

3. Applicant's arguments with respect to claims 17, 39, 40, and 62 have been considered but are not persuasive.

Even if the parent application (now US Patent 5,878,403) has the filing date (September 12, 1995) which is well before the publication date of the BB&T reference (July 1997) relied upon by the Examiner in the sole rejection of the claims in this application, the feature "facilitating the first remote funding source terminal device to selectively forward the credit application to a second remote funding source terminal device if the funding source associated with the first remote funding source terminal declines to approve the credit application", taught by the BB&T and applied in the rejection, **is not disclosed in the parent application**. By carefully reviewing the parent application (now US Patent 5,878,403), examiner certifies that nowhere in the parent application disclosed this feature. For example, see column 11, lines 37-40, "the dealer has complete control over the selection of which funding sources to send an application to and the routing of the application to the funding sources", column 13, lines 30-37, "...the dealer may optionally send to all at once (shot-gunning), send to each in turn if the previous funding source has declined the application...", column 14, lines 55-57,

"the dealer is able to set up the conditions under which the system will automatically forward an application to a next selected funding source". Thus, the dealer is the one who selectively forwards the credit application to a second remote funding source if the first remote funding source terminal declines the credit application. There is no "lender-to-lender" capability disclosed in the parent application. In contrast, the present invention discloses a "lender-to-lender" capability, that is, the first funding source (or first lender) terminal device is the one who selectively forwards the credit application to a second remote funding source (or second lender) terminal device if the first funding source terminal declines the credit application. Therefore, the "lender-to-lender" capability feature cannot have the benefit filing date of the parent application because this feature is not disclosed in the parent application. The BB&T reference has the publication date (July 1997) which is before the filing date of the present application (September 3, 1997) and discloses the "lender-to-lender" capability feature, thus applying the BB&T reference in the rejection is proper.

In conclusion, for the reason set forth above, examiner decides to maintain the BB&T reference for the rejection (also see details below) and make this office action FINAL.

4. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 17, 39, 40, and 62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dykstra et al (hereinafter Dykstra), U.S. Patent No. 5,611,052, in view of Branch Banking & Trust Cop. (hereinafter BB&T), "Automated review system drives BB&T's subprime loan business".

Regarding claim 17, Dykstra discloses a computer implement method of managing a credit application, the method comprising the steps of:

receiving credit application data from the remote application entry and display device (column 4, lines 12-35);

selectively forwarding the credit application data and the credit report data to a first remote funding source terminal device (figure 2A, step 120); and

forwarding funding decision data from at least one of the first and second remote funding source terminal device to remote application entry and display device (figure 2A, step 122).

Dykstra does not teach: facilitating the first remote funding source terminal device to selectively forward the credit application to a second remote funding source terminal device if the funding source associated with the first remote funding source terminal declines to approve the credit application. However, BB&T teaches the facilitating the first remote funding source terminal device to selectively forward the credit application to a second remote funding source terminal device if the funding source associated with the first remote funding source terminal declines to approve the credit application (page 1, lines 40-50). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Dykstra's to adopt the teaching of the BB&T above for the purpose of allow the borrower with a high credit risk can obtain a loan from the second lender, when the first lender does not approve loan to the borrower.

Regarding claim 39, Dykstra further teaches the remote application entry and display device includes a data entry terminal for manual entry of the credit application data (figure 1, item 26).

Regarding claim 40, Dykstra further discloses aggregating data from each or the plurality of dealerships; and providing the dealer with a consolidated report using the aggregated data (see figure 1, item 26 and column 4, lines 12-40).

Regarding to claim 62, Dykstra further discloses obtaining credit report data from at least one remote credit bureau terminal device (column 4, lines 41-65).

Conclusion

7. Claims **17, 39, 40, and 62** are rejected.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen whose telephone number is (703) 306-2901. The examiner can normally be reached on Monday-Thursday from 9:00AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on (703) 308-0505.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-1113.

9. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
C/o Technology Center 3600
Washington, DC 20231

Or faxed to:

(703) 872-9326 (for formal communication intended for entry),

or


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(703) 308-3691 (for informal or draft communication, please label
"PROPOSED" or "DRAFT").

Hand-delivered responses should be brought to Crystal Park 5, 2451 Crystal
Drive, Arlington, VA, Seventh Floor (Receptionist).

Nga B. Nguyen



January 6, 2005